

TTAB

76,570,501

December 18, 2006

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

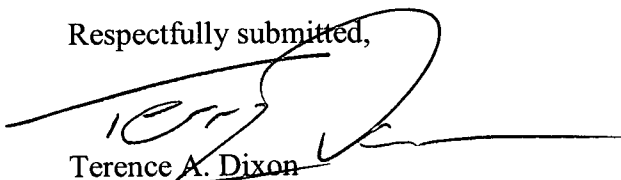
Attn: Trademark Trial and Appeal Board

Re: Opposition No. 91/167,945


To the Commissioner for Trademarks:

Enclosed for filing, on behalf of Asprey Holdings Limited, is Applicant's Brief in Opposition to Opposer's Motion for a 30 Day Extension of Time to Respond to Applicant's Interrogatories, Document Requests and Requests for Admission.

Respectfully submitted,


Terence A. Dixon

TAD:jcr
Enclosures


12-18-2006

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

LAURICE EL BADRY RAHME LTD.
dba LAURICE & CO.

Opposer,

v.

ASPREY HOLDINGS LIMITED

Applicant.

Opposition No. 91/167,945

**APPLICANT'S BRIEF IN OPPOSITION TO OPPOSER'S MOTION
FOR A 30 DAY EXTENSION OF TIME TO RESPOND TO APPLICANT'S
INTERROGATORIES, DOCUMENT REQUESTS AND REQUESTS FOR ADMISSION**

Applicant, Asprey Holdings Limited, respectfully submits that there is no basis for extending Opposer Laurice El Badry Rahme Ltd.'s deadline for responding to Applicant's discovery requests. In order to obtain such an extension, Opposer must demonstrate that there is "good cause" for the request. In this regard, Opposer "must set forth with particularity" the facts that supposedly justify the need for an extension. Mere conclusory allegations are not enough. TBMP § 509.01(a). Opposer's motion does not even come close to satisfying this requirement.

Opposer claims that it needs more time to respond to Applicant's discovery requests "because of the large amount of information requested." (Opp. Br. at 1.) Opposer does not claim that Applicant's requests are vague or unclear. Likewise, Opposer does not claim that Applicant has asked for information that is irrelevant to this proceeding. Instead, Opposer merely states that Applicant has posed 22 interrogatories, 27 document requests, and 610 requests for admission and that the number of requests alone should somehow justify an extension of time.

Needless to say, the Board does not impose any limits on the number of document requests and requests for admission that may be served in an opposition proceeding. *Cf.* TBMP § 405.03 *with* TBMP §§ 406, 407. Although the Board limits the number of interrogatories that may be served, Opposer does not claim that Applicant has exceeded that limit.

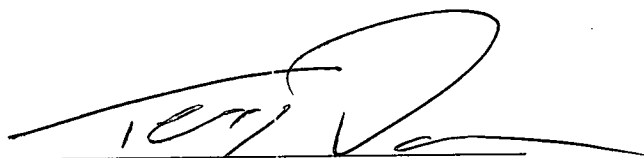
The number of interrogatories, document requests, and request for admission, is also entirely reasonable given the nature of this proceeding. Applicant is seeking to register the mark 167 NEW BOND STREET LONDON and Design for a broad range of goods and services in Classes 3, 8, 9, 14, 18, 25, 28, and 35. Opposer has filed a blanket opposition in which it opposes each and every class of goods and services in the application. That opposition is premised on a claim of likelihood of confusion under §2(d) based solely on Opposer's alleged common law rights in the mark BOND NO. 9 and Design. Applicant has served a series of discovery requests that are intended to show that Opposer does not have priority with respect to many if not all of the goods and services in the application which Opposer has sought to oppose. For example, the bulk of Applicant's requests for admissions (Req. Nos. 101 through 610) ask Opposer to admit that at the present time it does not use its mark on or in connection with various specific goods listed in Class 3 in the application, that Opposer did not use its mark on or in connection with those goods and services before Applicant's priority date, and indeed, that Opposer has never used its mark on or in connection with these goods and services. This information is relevant to this proceeding, because it would tend to show that Opposer does not have any basis for pursuing a likelihood of confusion claim.

Moreover, Applicant's requests are not unduly burdensome, because Opposer only needs to provide a one word answer for each request – "Admitted" or "Denied" – or provide a reasonable explanation as to why it cannot provide a sufficient response. Opposer has provided no explanation as to why it could not supply such one word answers within the time allotted by the rules. Indeed, Opposer presumably knows full well which goods and services it has provided under its mark and when. In short, therefore, Opposer has given no justification at all – let alone "good cause" – for why it cannot respond to Applicant's requests in a timely manner.

Finally, granting Opposer's request for an extension of time would be unfairly prejudicial to Applicant. If Opposer's deadline for responding to Applicant's discovery requests is extended by 30 days, Opposer's responses would be due on January 7, 2007. Because January 7th falls on a Sunday, Opposer would not be required to serve its responses until January 8th. Under the current schedule, however, Opposer's testimony period opens on January 8th. This means that Applicant would not be able to file a motion for summary judgment using the information gleaned from Opposer's discovery responses, because Opposer's testimony period would open on the same day that Opposer's discovery responses would be served. TMBP § 528.02.

For the foregoing reasons, Applicant respectfully submits that Opposer's motion should be denied, and given that Opposer failed to respond to Applicant's discovery requests within the time allowed, Opposer should be deemed to have waived its objections to Applicant's discovery requests, and should be deemed to have admitted the statements set forth in Applicant's requests for admissions. In the event that the Board decides to grant Opposer's motion, however, Applicant respectfully requests that the deadline for filing motions for summary judgment be extended by 30 days – solely for the benefit of Applicant – until February 7, 2007.

Respectfully submitted,



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Dated: December 18, 2006

Attorneys for Applicant
ASPREY HOLDINGS LIMITED

CERTIFICATE OF SERVICE

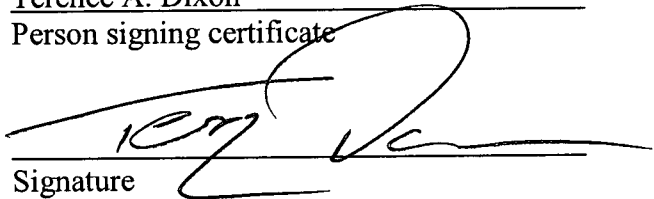
I hereby certify that a true and correct copy of Applicant's Brief in Opposition to Opposer's Motion for a 30 Day Extension of Time to Respond to Applicant's Interrogatories, Document Requests, and Requests for Admission has been duly served by mailing such copy first class, postage prepaid, to Barbara Loewenthal, Gottlieb, Rackman & Reisman PC, 270 Madison Avenue, New York, NY 10016-0601 on December 18, 2006.


Terence A. Dixon

Certificate of Mailing by Express Mail

I hereby certify that this Applicant's Brief in Opposition to Opposer's Motion for a 30 Day Extension of Time to Respond to Applicant's Interrogatories, Document Requests, and Requests for Admission is being deposited with the United States Postal Service as Express Mail, post office to addressee, in an envelope addressed to: United States Patent and Trademark Office, Attention: Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313-1451 on December 18, 2006.

Terence A. Dixon
Person signing certificate


Signature

December 18, 2006

Date

EV 855690369 US

Express Mail Number